

# RECOMMENDATIONS TO REAUTHORIZE THE ELEMENTARY AND SECONDARY EDUCATION ACT

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The Council of Chief State School Officers (CCSSO) is a nonpartisan, nationwide, nonprofit organization of public officials who head departments of elementary and secondary education in the states, the District of Columbia, the Department of Defense Education Activity, and five U.S. extra-state jurisdictions. CCSSO provides leadership, advocacy, and technical assistance on major educational issues. The Council seeks member consensus on major educational issues and expresses their views to civic and professional organizations, federal agencies, Congress, and the public.

When Congress last amended the Elementary and Secondary Education Act (ESEA), through passage of the No Child Left Behind Act (NCLB), state movement toward standards-based reform was uneven. NCLB mandated, as a requirement of receipt of federal funds, nationwide state action on several foundations of standards-based reform, based on specific minimum requirements. Today, based in part on NCLB, those foundations are widely in place, including state standards, state assessments, state data systems, state accountability systems, state teacher quality requirements, and more. State education agencies (SEAs) are focused on school and district performance and ensuring that all students (and all subgroups of students) achieve high standards. Now, the question

is how do we build on and invest in these systems to promote innovation and advancement in a manner that can best improve student achievement and close achievement gaps.

**State education agencies (SEAs) are focused on school and district performance and ensuring that all students (and all subgroups of students) achieve high standards.**

To that end, CCSSO launched an ESEA Task Force in January 2006 to help states identify and achieve consensus around the key principles that must be addressed when Congress reauthorizes ESEA. As a result of the Task Force's work, CCSSO recently published a comprehensive Policy Statement regarding ESEA reauthorization and the type of state-federal education partnership that our nation needs to maintain its leadership – moral, democratic, and economic – in the 21st century. CCSSO's Reauthorization Policy Statement urges Congress and the U.S. Department of Education (ED) to pursue a new partnership model based on three core themes: (1) innovation, including continued support and increased autonomy for states to build on the foundations of standards-based reform, (2) capacity, including greater focus on building the ability of state and local education agencies to improve learning opportunities for all students and to intervene in consistently low-performing districts and schools, and (3) research and development, including increased investment in research, evaluation, technical assistance, and collaboration to

help inform state and local efforts to improve student achievement and close achievement gaps.

The purpose of this document is to build upon CCSSO's ESEA Reauthorization Policy Statement to provide more specific recommendations to Congress about how to update and improve upon ESEA to help ensure that all students are prepared for postsecondary education, work, and citizenship in the 21st century. The following specific recommendations regarding the current No Child Left Behind Act have been endorsed by chiefs as states' top consensus priorities for ESEA reauthorization.



**PROMOTE INNOVATIVE MODELS AND REINVENT PEER REVIEW.** The reauthorized ESEA should encourage, not stifle, innovation, and it should improve the peer review process to make it a true state-federal partnership in that regard – with a focus on knowledge enhancement and promotion of educationally sound models rather than monitoring for narrow compliance. The innovation that we need in education cannot be achieved by a federal law that only acknowledges one system for another five-plus years without room for continuous improvement. CCSSO urges Congress to amend NCLB Section 9401 to remove and recast NCLB’s current “waiver” authority to

indicate that the Secretary “shall” approve innovative models where states can demonstrate, through a revised peer review process, good faith, educationally sound strategies to raise the bar for standards-based reform in each state’s context, along with accountability for raising student achievement and closing achievement

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gaps. CCSSO further urges Congress to amend NCLB Section 1111 to ensure a strong state role in the selection of qualified peers (including peers from the states) and to require a range of improvements in the peer review process to ensure a focus on technical assistance, full transparency, real communication and dialogue with states, consistency in peer review standards and outcomes across states, timeliness of feedback and results, dissemination of promising practices, and more.

**Rationale:** Under current NCLB authority, the Secretary *may* grant flexibility beyond NCLB language where states propose models that are educationally sound. Despite the Secretary’s “new equation” for NCLB implementation, this flexibility has been very limited. Current law contributes to this problem by incorrectly characterizing the Secretary’s acknowledgement of alternative models as “waivers” as opposed to innovative pathways to improving student achievement. Now that the foundations of standards-based reform are in place, we need to move from debates over “flexibility” and “waivers” to encourage innovative models approved through a revised and enhanced peer review process. Peer review has become an important mechanism by which the federal government enforces specific program requirements, while trying to avoid issues of federalism. The process has great potential, but has been replete with problems in implementation including under-qualified peers, lack of transparency, lack of timeliness, unevenness across states, etc. Peer review needs to be truly *peer* and *review*, including a focus on knowledge development and technical assistance, and continuous interaction among peer reviewers, ED, and the states regarding what is most educationally sound.

**IMPROVE ACCOUNTABILITY DETERMINATIONS.** The reauthorized ESEA should encourage use of a variety of accountability models focused on individual student achievement that build on adequate yearly progress (AYP) to promote more valid, reliable, educationally meaningful accountability determinations. CCSSO urges Congress to amend NCLB Section 1111 to ensure states’ right to use true growth models to complement status measures (to follow the progress of the same students over time at all performance levels). The reauthorized ESEA should also ensure states’ right to use relevant confirmatory/compensatory data regarding school performance as part of a process for accountability determinations based on multiple measures and sound judgment (to differentiate accountability determinations and consequences [see the next Recommendation]).

**Rationale:** Under NCLB, states are required to make AYP determinations for all public schools and districts, and to base AYP on 95% participation, percent proficient, and one additional indicator. States must generally base accountability determinations on the performance of different cohorts of students from year to year. ED has allowed the use of index systems and announced a growth models pilot project, but only five



states have been even provisionally approved to use (often narrowed-down) growth models as part of AYP. Further, some states have devised systems that examine AYP data plus additional confirmatory data for AYP, but they generally may not consider those data in accountability determinations or to differentiate consequences. Federal law should encourage states to continuously improve their accountability models and to make the most valid, reliable accountability determinations, basing AYP and consequences on the most valid, reliable evidence and judgment.

**DIFFERENTIATE CONSEQUENCES.** The reauthorized ESEA should encourage a full range of rewards and consequences for districts and schools that differ appropriately in nature and

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degree, based, for example, on whether schools miss AYP by a little versus a lot. CCSSO urges Congress to amend NCLB Section 1116 to permit states to exercise appropriate judgment and differentiate both accountability determinations and consequences based on sound evidence. This includes targeting interventions to the lowest

performing students/subgroups that do not meet AYP and maintaining consequences (without escalation) where schools are demonstrating significant plans and progress in addressing identified underperformance. The law should also be amended to focus more on supports for schools and students, to increase parental choice regarding the kinds of supplemental educational services provided, to permit states and districts to change the order of required consequences (particularly choice versus supplemental educational services), and to target supplemental educational services based on academic need, and to increase opportunities for the provision of supplemental educational services at the district level.

**Rationale:** Under NCLB, states are required to implement a system of rewards and consequences for all public schools and districts, including a series of required, escalating sanctions for Title I schools and districts. Without amendment, NCLB requires the same classifications and interventions for Title I schools and districts regardless of whether they missed performance goals by a little or a lot, regardless of the plans and capacities in place, and regardless of the interim progress being made. This is neither efficient nor effective. Federal law should encourage states to promote the most educationally sound actions and timelines to help ensure that schools and students meet performance expectations. Federal law should promote an array of supports, including encouraging districts to offer parents a menu of choices for supplemental educational services, such as after-school programs, private tutoring, summer school, etc.

**IMPROVE ASSESSMENT SYSTEMS.** The reauthorized ESEA should encourage, though not require, use of a variety of state and local assessment models that can improve teaching and

learning and promote more valid, reliable accountability determinations. CCSSO urges Congress to amend NCLB Section 1111 to permit states to promote the use of multiple state and local assessments (including assessments that can show growth at all levels) and ensure states' right to vary the frequency and grade spans of assessments. CCSSO further urges Congress to provide continued support for states to strengthen assessment systems.

**Rationale:** Under current NCLB implementation, states are generally required to have summative assessments in reading and math in grades 3-8 and once in 10-12. States are now working to improve upon those systems by building more educationally sound models in each state's unique context, including the development of formative, embedded, web-based state and local assessment systems. This movement should be encouraged within federal law to better link assessment for accountability with meaningful improvements in teaching and learning (without micromanaging deeper state assessment systems).



**P**ROPERLY INCLUDE STUDENTS WITH DISABILITIES. The reauthorized ESEA should encourage inclusion of students with disabilities in state assessment and accountability systems in a manner that is most meaningful for the full range of students with disabilities, based on

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ambitious but educationally sound performance goals and measures. CCSSO urges Congress to amend NCLB Section 1111 to permit use of alternate assessments measured against alternate/modified achievement standards based on individualized growth expectations across grade levels as needed for some students. The

law should also be amended to count the performance of students with disabilities who recently transitioned out of that subgroup in subgroup accountability determinations for an appropriate period.

**Rationale:** Under NCLB, states are required to include students with disabilities in state assessment and accountability systems. ED has permitted states, by regulation and interim flexibility, to use alternate assessments aligned with alternate/modified achievement standards for a small number of students with significant disabilities (so-called 1% and 2% students), but these have been established as rigid caps. States have been prohibited from basing AYP on student growth consistent with Individualized Education Program (IEP) team goals or growth across grade levels, and states have been prohibited from including alternative diplomas in graduation rates where consistent with IEP team goals even for the most significantly disabled students. For inclusion in assessment and accountability to be valid, it must be educationally meaningful for each student, and federal law (both ESEA and the Individuals with Disabilities Education Act [IDEA] working together) should reflect that.

**P**ROPERLY INCLUDE ENGLISH LANGUAGE LEARNERS. The reauthorized ESEA should encourage inclusion of English language learner (ELL) students in state assessment and accountability systems in a manner that is most meaningful for the full range of ELL students, based on ambitious but educationally sound performance measures and goals. CCSSO urges Congress to amend NCLB Section 1111 to permit states to properly include new immigrant ELL students in school accountability based on multiple measures for several years (no fewer than 3 years) where educationally appropriate. The law should also be amended to allow the use of a full range of alternate assessments and to value individualized growth. In addition, federal law should count the performance of students who recently transitioned out of the ELL student subgroup in subgroup accountability determinations for an appropriate period.

**Rationale:** Under NCLB, states are required to include ELL students in state assessment and accountability systems. ED has permitted by regulation states to count only participation for new immigrant ELL students for one year in making AYP determinations. After that, states must include ELL students based on standard or alternate content knowledge assessments aligned with grade-level performance standards. For inclusion in assessment and accountability to be valid, it must be educationally meaningful for each student, and federal law (both Title I and Title III of ESEA, working together) should reflect that. This requires greater flexibility regarding the method of inclusion in accountability, particularly for new immigrant ELL students who in many cases have previously had no English instruction and no formal schooling.



**E**NHANCE TEACHER QUALITY. The reauthorized ESEA should provide incentives for states to create the best teaching force in the world, by continuously improving teacher quality, by supporting best-in-class professional development, and by encouraging use of multiple individual pathways to pedagogical and subject matter expertise. CCSSO urges Congress to amend Section 1119 to incentivize continued improvement in teacher quality in a



meaningful manner. Recommended changes include counting newly hired teachers (particularly rural, special education, and ELL teachers) as “highly qualified” when they meet standards in their primary subject areas and are on a pathway (of no more than three years) with regard to additional

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subjects based on a high, objective, uniform state standard of evaluation (HOUSSE). The law should count teachers of students with disabilities and ELL students as “highly qualified” where they work in close consultation with another teacher who is highly qualified and offer alternative pathways and multiple measures of subject

matter expertise (including HOUSSE). The new law should also provide incentives for (but not require) performance systems based on growth in student achievement as *one of multiple measures* (such as continued support for the Teacher Incentive Fund), and should provide incentives to help ensure that experienced, successful teachers serve in the most challenging schools.

**Rationale:** Under NCLB, states are required to take action to ensure that all teachers of core academic subjects are “highly qualified,” which is defined to include having a bachelor’s degree, being fully certified, and demonstrating subject matter expertise. States are permitted to adopt pathways to certification for up to three years, but not (expressly) for subject matter expertise (except for a limited number of small/rural and special education teachers teaching multiple subjects). And subject matter expertise has been rigidly defined in some cases as requiring a subject-matter test, with ED threatening to “phase out” the HOUSSE standard. Federal law should encourage states to establish multiple measures for teacher quality, set ambitious but meaningful bars, and leverage those bars to improve teacher preparation and performance over time.

**STRENGTHEN RESOURCES.** The reauthorized ESEA should retain and provide additional funds at the state level that appropriately reflect the increased roles and responsibilities placed on states under ESEA for systemic actions to help improve student achievement and close achievement gaps. CCSSO urges Congress to amend NCLB to provide additional, long-term, consistent funding for SEA action and intervention in underperforming districts and schools (such as through full and increased funding for School Improvement Grants); for key areas such as state assessments (particularly including alternate assessments and English proficiency assessments), state data systems, and technology; and for research and development to inform state and district efforts.

**Rationale:** Under NCLB (and as a matter of broader standards-based reforms), states have assumed significant new responsibilities and are required to take core actions to implement federal law and promote student achievement, including development of state standards, state assessments, state accountability systems, state data and reporting, state teacher quality requirements, and more. This particularly includes providing technical assistance and interventions to support and turnaround underperforming districts, schools, and students. For this system to succeed, federal law must recognize a shared state-federal responsibility for improving student achievement and closing achievement gaps, and must provide greater investments for SEAs as core partners and levers of leadership and change in standards-based education reform.

